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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/551,411 04/18/00 VENOLIA

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EXAMINER

BRIER, J

ART UNIT

PAPER NUMBER

2672

DATE MAILED:

05/22/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

**Office Action Summary**

Application No.

09/551,411

Applicant(s)

VENOLIA, DANIEL SCOTT

Examiner

Jeffery A. Brier

Art Unit

2672

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 April 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 26-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Priority*

1. Applicant needs to update the continuing data on page 1.

### *Specification*

2. The disclosure is objected to because of the following informalities: a brief description of figure 11 is missing.

Appropriate correction is required.

### *Double Patenting*

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 26-33 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 8-10 of U.S. Patent No. 6,061,062. Although the conflicting claims are not identical, they are not patentably distinct from each other because applicant has changed patented claim 8 by deleting limitations and by exchanging limitations, however, the majority of patented claim 8 exists in pending claim 26. The changes made to patented claim 8 in claim 26 are

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indicated below with deletions indicated by line through and additions indicated by underlining.

8. A method of implementing a single input device for controlling movement of a cursor displayed on a ~~computer~~ data processing system and for controlling access of a particular piece of data within a data field displayed by a ~~computer~~ the data processing system, said method comprising the steps of:

positioning a moveable cursor to a location on a display screen in response to movement of said input device when a signal supplied by said input device is in a first state;

when said signal is in a second state:

remapping control of said input device, wherein movement of said input device controls both a resolution and a range of said data field for display on said display screen ~~rather than positioning said moveable cursor~~;

selectively varying said resolution at which said data field is displayed responsive to movement of with said input device in a first axis, wherein ~~continuous~~ movement of said input device in said first axis continuously changes said resolution;

controlling said range of the data field for display in response to movement of ~~said cursor positioning~~ with the input device in a second axis, wherein ~~continuous~~ movement in the second axis ~~continually~~ causes different ranges of the data field to be displayed;

moving ~~said cursor positioning~~ with the input device in the first and second axes to simultaneously vary said resolution and said range of display, until the particular piece of data is accessed.

Clearly applicant has broadened claim 8. Broadening a claim is an obvious way to obtain another patent. In re Vogel. Thus, claim 26 is an obvious variation of patented claim 8. The claim is broadened because data processing systems are not necessarily a computer and because applicant deleted continuous and rather than positioning said moveable cursor. Pending claim 27 is the same as patented claim 9 and pending claim

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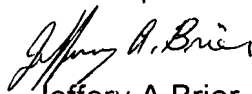
28 is the same as patented claim 10. Pending claim 29 is new, however, column 2 lines 44-45 and column 7 lines 34-46 of the patent connects resolution and scale such that a change in resolution corresponds to a change in scale. Thus, the resolution at line 12 of patented claim 8 includes scale. Therefore, new claim 29 is an obvious variation of patented claim 8. Claims 30-33 correspond to claims 26-29 with the difference being that they are written as machine readable medium format claims. To write patented claims 8-10 in machine readable medium format would have been obvious because patented claims 8-10 correspond to the method performed by the patent's computer program stored on a machine readable medium. Thus, claims 30-33 are an obvious variation of patented claims 8-10.

5. Claims 26-33 would be allowable when a proper terminal disclaimer is filed.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery A Brier whose telephone number is (703) 305-4723. The examiner can normally be reached on M-F from 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi, can be reached on (703) 305-4713. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.



Jeffery A Brier  
Primary Examiner  
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